

Eyewitness Identification

604.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Wis. Stat. § 175.50).

604.1.1 DEFINITIONS

Definitions related to the policy include:

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

604.2 POLICY

This department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

604.3 INTERPRETIVE SERVICES

Officers should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating officer should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

604.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Investigation Division supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide:

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.

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- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all of the individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.

The process and related forms should be reviewed at least annually and modified when necessary.

[See attachment: FM-0039p.pdf](#)

[See attachment: FM-0039s.pdf](#)

604.5 EYEWITNESS IDENTIFICATION

Officers are cautioned not to, in any way influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Officers should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified, or failed to identify, the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.

604.5.1 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person is viewed by the witness. Techniques to achieve

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this include randomly numbering photographs, shuffling folders or using a computer program to order the persons in the lineup.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The member presenting the lineup to a witness should do so sequentially (i.e., show the witness one person at a time) and not simultaneously (Wis. Stat. § 175.50). The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

604.5.2 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination or show-up identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the officer should observe the following guidelines:

- (a) Obtain a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:
 - 1. The length of time the witness observed the suspect.
 - 2. The distance between the witness and the suspect.
 - 3. Whether the witness could view the suspect's face.
 - 4. The quality of the lighting when the suspect was observed by the witness.
 - 5. Whether there were distracting noises or activity during the observation.
 - 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
 - 7. The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
- (d) When feasible, officers should bring the witness to the location of the suspect, rather than bring the suspect to the witness.

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- (e) A person should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the suspects one at a time.
- (g) A person in a field identification should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.
- (h) If a witness positively identifies an individual as the perpetrator, officers should not conduct any further field identifications with other witnesses for that suspect. In such instances officers should document the contact information for any additional witnesses for follow up, if necessary.

604.6 DOCUMENTATION

A thorough description of the eyewitness process and the results of any eyewitness identification should be documented in the case report (Wis. Stat. § 175.50).

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

604.7 POLICY REVIEW

At a minimum, the Department will biennially review the Eyewitness Identification Policy. In developing and revising this policy, the Department will consider model policies and policies adopted by other jurisdictions (Wis. Stat. § 175.50).

Attachments

FM-0039p.pdf

**HUDSON POLICE DEPARTMENT
PHOTO ARRAY WITNESS IDENTIFICATION**

_____	_____	_____
Date	Time	Case Number
_____	_____	_____
Viewer's Name	Address, City, State, ZIP	Date of Birth
_____	_____	_____
Home Phone	Work Phone	Officer Presenting Photo Array

PLEASE READ BEFORE VIEWING PHOTOGRAPHS OR SIGNING THIS PAGE:

In a moment, I am going to show you a series of photos. The person who committed the crime may or may not be included. I do not know whether the person being investigated is included. Even if you identify someone during this procedure, I will continue to show you all the photos in a series.

Keep in mind that things like hair styles, beards, and mustaches can be easily changed and that complexion colors may look slightly different in photographs.

You should not feel you have to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator.

The photos will be shown to you one at a time and are not in any particular order. Take as much time as you need to look at each one. After each photo, I will ask you "Is this the person you saw [insert description of act here]?" Take your time answering the question. If you answer "Yes," I will then ask you, "In your own words, can you describe how certain you are?"

Because you are involved in an ongoing investigation, in order to prevent damaging the investigation, you should avoid discussing this identification procedure or its results.

Do you understand the way the photo array procedure will be conducted and the other instructions I have given you?

I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to review the photographs that will be presented to me, and I will follow the instructions provided on this form.

_____	_____
Date	Witness Signature
_____	_____
Date	Officer Signature

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**HUDSON POLICE DEPARTMENT
SHOW-UP WITNESS IDENTIFICATION**

_____	_____	_____
Date	Time	Case Number
_____	_____	_____
Viewer's Name	Address, City, State, ZIP	Date of Birth
_____	_____	_____
Home Phone	Work Phone	Officer Presenting Show-Up

PLEASE READ BEFORE VIEWING AN INDIVIDUAL OR SIGNING THIS PAGE:

In a moment, I am going to show you an individual. That person may or may not be the true perpetrator. I do not know if the person is the true perpetrator.

You should not feel you have to make an identification. It is as important to exclude innocent persons as it is to identify the perpetrator.

After you have observed the individual, I will ask you "Is this the person you saw [insert description of act]?" Take your time answering the question. If you answer "Yes," I will then ask you, "In your own words, can you describe how certain you are?"

Because you are involved in an ongoing investigation, in order to prevent compromising the investigation, you should avoid discussing this identification procedure or its results.

Do you understand the way this procedure will be conducted and the other instructions I have given you?

I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to observe the individual who will be presented to me, and I will follow the instructions provided on this form.

_____	_____
Date	Witness Signature
_____	_____
Date	Officer Signature